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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,419	10/28/1999	PAUL J. SMALSER	OPT-32U	5909

7590 11/20/2002
MICHAEL Y EPSTEIN
387 KING ST.
STE. H
CHARLESTON, SC 29403

EXAMINER

GONZALEZ, JULIO C

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/429,419

Applicant(s)

SMALSER ET AL.

Examiner

Julio C. Gonzalez

Art Unit

2834

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other.

DETAILED ACTION

Other

With respect to the interview of May 28, 2002 with Mr. Michael Epstein, it is not necessary for applicant to provide a separate record of the substance of the interview.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 21-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

What composes the collecting mechanism? The load since it absorbs energy or the motor 14? Is the energy collected in a device?

In claim 25, the "said collecting mechanism" lacks antecedent basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Syverson in view of Mikhail et al.

Syverson discloses an operating system for generating electrical power for a source of input energy occurring at variable rates including a first rate and a second rate which is captured by varying the impedance of the load for increasing the output current from the generator for increasing the mechanical impedance of the generator (column 5, lines 31-37, see also figures 5 and 8).

However, Syverson does not disclose explicitly that the generator's mechanical impedance is controlled.

On the other hand, Mikhail et al discloses, explicitly, for the purpose of providing a stable turbine system that the generator mechanical impedance is controlled (column 5, lines 35-42).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design an operating system for a generating system as disclosed by Syverson and to modify the invention by directly controlling the generator for the purpose of providing a stable turbine system as disclosed by Mikhail et al.

Response to Arguments

5. Applicant's arguments filed 09/10/02 have been fully considered but they are not persuasive.

Syverson discloses that the generator's speed is varied (column 5, lines 32-38). Anybody with ordinary skill in the art would know that by varying the speed of the generator, the impedance of the generator is varied, too. Also, the current of the generator is sensed (column 6, lines 60-65) and reduced in the generator (column 6, lines 47-51 & column 9, lines 18-25). Moreover, the generator is slowed when needed (column 5, lines 38-40 & column 7, lines 19-22). Also, the generator is disclosed to continuously run since the shut down feature can be applied if desired (column 5, line 48). Syverson discloses using a load to slow the speed of the generator by controlling the current (column 6, lines 10, 38-42). Also, a device for sensing the speed of the generator is disclosed (column 6, lines 60-66). Also, according to the Merriam-Webster's Collegiate Dictionary, continuous means uninterrupted in time. How long is continuous? Claims of applicant's invention are not specific enough. Syverson discloses that the invention disclosed can run up to thirty minutes (column 8, lines 28-38) or to a desired time. The claims do not disclose specifically how continuous is the invention or for how long

can the applicant's invention run. Moreover, Syverson discloses that the device is able to run for over extended period of times (see abstract).

Also, Syverson discloses that a vibration sensor would be utilized to close down the system if it starts to shake apart or to minimize motor vibrations (column 5, lines 17-19). Surely, Syverson discloses devices that may be used for protecting the capturing system. Also, the impedance is not maintain at a fixed value as argued in the remarks filed on 09/10/02, since other auxiliary loads, sensors and solenoid may be used as needed to slow down the generator (column 5, lines 42-52). Also, the generator unit is disclosed to be slow down as desired (column 7, lines 20-24) as vibration become excessive, which clearly discloses that the system is design to protect the capturing energy device disclosed in the prior art.

Allowable Subject Matter

6. Claim 30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is (703) 305-1563. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371.

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The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jcg

November 11, 2002

Thomas M. Dougherty
THOMAS M. DOUGHERTY
ATTORNEY AT LAW
2600